

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Ryan A. Mulcahy
and Frank A. Burgio, Waterbury

File No. 2015-093

AGREEMENT CONTAINING CONSENT ORDER

This Agreement by and between Christopher Ursini, of the City of Waterbury, County of New Haven, State of Connecticut, hereinafter referred to as "Respondent" and the undersigned authorized representative of the State Elections Enforcement Commission, is entered into in accordance with Connecticut General Statutes § 4-177 (c) and Regulations of Connecticut State Agencies § 9-7b-54. In accordance herewith, the parties agree that:

1. Complainants, Ryan A. Mulcahy and Frank A. Burgio, alleged that Respondent violated campaign finance laws by mailing a letter to promote his candidacy for re-election as Alderman in the City of Waterbury at the 2015 municipal primary and election using East End Community Club, Inc. (EECB) funds and without including a disclaimer of who paid for the campaign literature.
2. Additionally, Complainants alleged that Respondent inappropriately used his City of Waterbury Aldermanic email address on the aforementioned mailer.
3. By way of background, the EECB is a neighborhood association in Waterbury that engages in community service projects, scholarship programs, beautification projects, memorials and the like in the East End section of Waterbury. At all times relevant to this complaint, Respondent was EECB Membership Chair.
4. The Commission notes that Complainants also named Mr. Francis Vitarelli as a potential Respondent as the EECB President. After full consideration of this complaint and investigation, and as detailed herein, the Commission dismisses the allegations against Mr. Vitarelli as there was no indication that he was aware of Respondent's actions prior to the mailing of the letter and because Respondent has taken full responsibility for the violations.
5. At the time of this complaint, Respondent was a candidate for Alderman at the September 16, 2015 primary in Waterbury and soliciting signatures to appear on the ballot as a petitioning candidate at the November 3, 2015 municipal election.

6. General Statutes § 9-601c, provides in pertinent part:

...
(b) When the State Elections Enforcement Commission evaluates an expenditure to determine whether such expenditure is an independent expenditure, there shall be a rebuttable presumption that *the following expenditures are not independent expenditures*:

...
(8) *An expenditure made by a person for a communication that clearly identifies a candidate during an election campaign, if the person making the expenditure, or such person's agent, has informed the candidate who benefits from the expenditure* As used in this subdivision, a communication clearly identifies a candidate when that communication contains the name, nickname, initials, photograph or drawing of the candidate or an unambiguous reference to that candidate, which includes, but is not limited to, a reference that can only mean that candidate; ...
[Emphasis added.]

7. General Statutes § 9-613, provides in pertinent part:

(a) *No business entity shall make any contributions or expenditures to, or for the benefit of, any candidate's campaign for election to any public office* or position subject to this chapter or for nomination at a primary for any such office or position, or to promote the defeat of any candidate for any such office or position. No business entity shall make any other contributions or expenditures to promote the success or defeat of any political party, except as provided in subsection (b) of this section. No business entity shall establish more than one political committee. A political committee shall be deemed to have been established by a business entity if the initial disbursement or contribution to the committee is made under subsection (b) of this section or by an officer, director, owner, limited or general partner or holder of stock constituting five per cent or more of the total outstanding stock of any class of the business entity.
[Emphasis added.]

8. General Statutes § 9-621, provides in pertinent part:
- (a) No individual shall make or incur any expenditure with the consent of, in coordination with or in consultation with any candidate, candidate committee or candidate's agent, ... ***unless such communication bears upon its face as a disclaimer (1) the words "paid for by" and the following: (A) In the case of such an individual, the name and address of such individual; (B) in the case of a committee other than a party committee, the name of the committee and its treasurer; (C) in the case of a party committee, the name of the committee; or (D) in the case of a group of two or more individuals that receives funds or makes or incurs expenditures not exceeding one thousand dollars in the aggregate and has not formed a political committee, the name of the group and the name and address of its agent, and (2) the words "approved by" and the following: ... (B) in the case of a candidate committee, the name of the candidate.***
- [Emphasis added.]
9. Upon investigation, it was determined that between July 21, 2015 and August 3, 2015, Respondent sent out the letter that is subject of the complaint. Further, the Commission finds that the EECB "membership drive" letter invited individuals to join the EECB and encouraged past and present members to renew their membership.
10. Further, the Commission finds that Respondent used EECB membership lists to target his mailing and incorporated references to his aldermanic office, the changes brought by redistricting for the Board of Alderman in Waterbury and his aldermanic contact information without the permission, authorization or knowledge of either the EECB President or its Board.
11. Specifically, the Commission finds that the letter included the following:
- As your new Membership Chair of the East End Community Club (EECC) as well as your neighbor and Alderman in the 74th District as well as the new City 4th Alderman district, I wanted to welcome you to join the EECC.*
12. The letter provided the email address Aldermanursini@waterburyct.org under Respondent's name and title as Membership Chair of the EECC as well as an address and telephone number. Enclosed with the letter was an EECC Annual Membership/Advertising Application Form.

13. The EECB “membership drive” letter was produced and disseminated with EECB letterhead and envelopes. The letter was sent out by Respondent after the Waterbury Democratic Town Committee endorsed him for re-election as Alderman on July 21, 2015. This mailing went out to approximately 200 individuals that appeared on the prior EECB membership list and were either past or current members at a cost of approximately \$300.00.
14. General Statutes § 9-601b (2) provides that an “expenditure” includes “[a]ny communication that (A) refers to one or more clearly identified candidates ... [that] is sent by mail.”
15. Additionally, General Statutes § 9-613 prohibits a business entity from making an expenditure to benefit a candidate for election to public office.
16. The Commission finds after investigation that the EECB letter sent by Respondent *via* mail weeks prior to the September 19, 2015 primary and the November 3, 2015 election in Waterbury that identified Respondent’s name, Aldermanic position and district and Aldermanic email address. The Commission concludes therefore that the EECB letter referenced Respondent as a *clearly identified* candidate and therefore was an *expenditure* pursuant to General Statutes § 9-601b (2).
17. The Commission concludes, for the reasons detailed in paragraphs 10 through 15 above, that the expenditure for the membership drive letter was a prohibited business entity expenditure by EECB caused by Respondent to support his Aldermanic candidacy at the November 3, 2015 municipal election in Waterbury, in violation of General Statutes § 9-613.
18. General Statutes § 9-621 (a), requires an attribution on printed materials that promote a candidate identifying who approved and paid for it.
19. After investigation, the Commission finds that the EECB letter that promoted Respondent’s Aldermanic candidacy did not have an attribution identifying who paid for it or providing approval by Respondent as candidate.
20. The Commission concludes, as detailed in paragraphs 17 and 18 above, that Respondent violated General Statutes § 9-621 (a), by producing and distributing the EECB membership drive letter, which promoted his candidacy, without including a disclaimer that identified who paid for and approved the same.
21. Respondent admits all jurisdictional facts and agree that this Agreement and Order shall have the same force and effect as a final decision and order entered into after a full hearing and shall become final when adopted by the Commission.

22. The Respondent waives:
- a. Any further procedural steps;
 - b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law, separately stated; and
 - c. All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered into pursuant to this Agreement.
23. Upon the Respondent's agreement to comply with the Order hereinafter stated, the Commission shall not initiate any further proceedings against her concerning this matter.
24. It is understood and agreed by the parties to this Agreement that the Commission will consider this Agreement at its next meeting and, if the Commission rejects it, the Agreement will be withdrawn and may not be used as an admission by the Respondent in any subsequent hearing, if one becomes necessary.


ORDER

IT IS HEREBY ORDERED THAT Respondent shall pay a civil penalty in the amount of three hundred dollars (\$300.00) for his violations of General Statutes § 9-613 and § 9-621.

IT IS FURTHER ORDERED THAT Respondent shall henceforth strictly comply with the requirements of General Statutes § 9-613 and § 9-621.

The Respondent

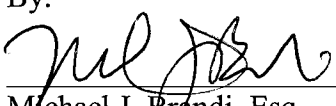
By:


Christopher Ursini
33 Baker Drive
Waterbury, Connecticut

Dated: 12-22-15


For the State of Connecticut

By:


Michael J. Brandi, Esq.
Executive Director and General Counsel and
Authorized Representative of the
State Elections Enforcement Commission
20 Trinity Street, Suite 101
Hartford, Connecticut

Dated: 12/30/15

Adopted this 13th day of January, 2016 at Hartford, Connecticut by vote of the Commission.


Anthony J. Castagno, Chairman
By Order of the Commission

**RECEIVED
STATE ELECTIONS**

DEC 30 2015

ENFORCEMENT COMMISSION